

REMARKS

Claims 1 – 7, 9 – 14, 16 and 17 are presently pending. In the above-identified Office Action, the Examiner rejected the Claims under 35 U.S.C. § 103(a) as being unpatentable over Anderson (U. S. Patent 5,857,156) in view of McMullan, Jr. *et al.* (U. S. Patent No. 5,654,746).

Accordingly, by this Amendment, a new claim, Claim 18, has been added for consideration. Claim 18 is drafted along the lines of Claim 1 without limitations directed to a satellite digital audio radio service transmitter and receiver.

For the reasons set forth more fully below, reconsideration, allowance and passage to issue are respectfully requested.

As stated previously, the invention of the subject Application addresses the need in the art for an inexpensive system and method for distributing music, information and other content on physical storage media per the desires of the end user in a legal manner that does not violate the rights of the content providers and/or artists.

In accordance with the invention, program content and data relating thereto is first transmitted to a consumer via a network. The user is provided with a receiver that is capable of receiving the transmission and providing an audio and/or visual output in response thereto. In addition, the receiver is adapted to receive an input from the user by which the user is able to signal an interest in purchasing a selection of music or data being played and/or displayed.

In the illustrative embodiment, in response to this signal from the user, a signal is stored that identifies the selection being played and/or displayed. The ID signal may be a composite signal indicating the time and channel, a signal that identifies a selection by number, or other suitable ID signal. The receiver or the user's home computer may be used to display the title, artist and/or other information based on the user's selections.

In the illustrative embodiment, the system includes a mechanism for allowing the user to retrieve the desired selection from a second network using the removable media. Several alternatives are provided for the retrieval mechanism. In one embodiment, the

retrieval mechanism is a computer, located either in the user's home or in a commercial establishment, through which the user is allowed to access a web site on the World Wide Web or a site on a private distribution hub. In either case, the site provides interface software, which translates the ID signal into a human readable identification (e.g., title and artist) of the music or data selected. In an alternative embodiment, the computer is provided in a kiosk accessible to the public.

The user then either downloads the desired selection through the site or places an order for delivery of physical media (e.g., a CD) on which the desired selection is stored.

The invention is set forth in Claims of varying scope of which Claim 1 is illustrative. Claim 1 recites:

1. A system for distributing program content comprising:
 - first means for transmitting said program content and data relating thereto using a first network, **said first means being a satellite digital audio service transmitter;**
 - second means for receiving said program content and data relating thereto, **said second means being a satellite digital audio service receiver;**
 - third means for receiving user input while a selection of said program content is being output by said receiver; and
 - fourth means for **storing data relating to said selection in response to said user input.** (Emphasis added.)

None of the references, including those cited but not applied, teaches, discloses or suggests a system for distributing program content having a means for transmitting the program content and data relating thereto via a network and for storing the data in response to a user input as presently claimed.

In the above-identified Office Action, the Examiner suggested that the invention was obvious in view of the combination of Anderson and McMullan, Jr. *et al.* As discussed previously, Anderson purports to show a personal intercommunication purchase and fulfillment system. However, the Examiner has taken contradictory positions with respect to the teaching of Anderson. In the third paragraph on page 2 of the Office Action, the Examiner asserts that Anderson teaches an SDARS transmitter and receiver. However, in the fourth paragraph on page 2 of the Office Action, the Examiner acknowledges correctly that Anderson does not disclose an SDARS receiver. Hence, the Examiner's position is unclear. Clarification is requested.

In any event, it is clear that Anderson teaches neither an SDARS transmitter nor an SDARS receiver.

The Examiner correctly acknowledged that Anderson fails to teach third means for receiving user input while a selection of program content is being output by the receiver or fourth means for storing a data relating to the data in response to user input. In short, Anderson fails to teach or suggest any of the limitations of Claim 1. Nonetheless, the Examiner asserts that the shortcomings of Anderson are overcome by the teachings of McMullan.

McMullan purports to teach a secure authorization and control method and apparatus for a game delivery service. On page 3 of the Office Action, the Examiner discusses the teaching of McMullan at length and concludes that it would have been obvious to apply the teaching of McMullan to the communication system of Anderson in order to allow the user flexibility to retrieve the desired selection from a second network using removable media and to access a web site on the World Wide Web.

However, it is unclear what claim is being examined by the Examiner. (Perhaps the Examiner is examining Claim 13 instead of Claim 1.) That is, the Examiner has not stated how McMullan provides any of the teachings not taught or suggested by Anderson as set forth above. Specifically, the Examiner has not addressed where in the McMullan reference a teaching may be found with respect to: 1) an SDARS transmitter; 2) an SDARS receiver; 3) means for receiving user input while a program selection is being output by the receiver; or 4) means for storing data relating to the selection in response to the user's input.

Accordingly, Applicant respectfully submits that even if the references are properly combined, the combination would still fail to teach the invention as presently claimed. Hence, the inventions of Claims 1, 17, 18 and the claims dependent thereon should be allowable.

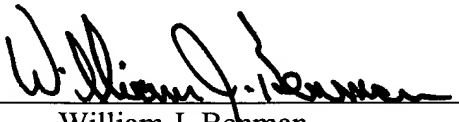
As to Claim 13, Applicant notes that neither Anderson nor McMullan teach a satellite based program distribution system as claimed with voice recognition means for receiving user input. Accordingly, Claims 13 and 14 should be allowable as well.

Regarding Claim 16, the Examiner has not shown how McMullan addresses Anderson's failure to teach means for storing the data in response to the user's input or

means for selectively disabling the means in response to a nonrecord-ability signal. Hence, Claim 16 should be allowable as well.

Accordingly, Applicant respectfully submits that the rejections of the Claims under 35 U.S.C. § 103(a) are improper and should be withdrawn. Reconsideration, allowance and passage to issue are respectfully requested.

Respectfully submitted,
S. Patsiokas

By 
William J. Benman
Attorney for Applicant
Registration No. 29,014

Benman, Brown & Williams
2049 Century Park East, Suite 2740
Los Angeles, CA 90067

(310) 553-2400
(310) 553-2675 (fax)